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11 UNITED NATIONAL INSURANCE COMPANY
12

13 UNITED STATES DISTRICT COURT
14 NORTHERN DISTRICT OF CALIFORNIA
15 SAN FRANCISCO/OAKLAND DIVISION
16

17 INTERSTATE FIRE & CASUALTY
18 COMPANY,

19 Plaintiff,

20 v.

21 UNITED NATIONAL INSURANCE
22 COMPANY and DOES 1 through 10.

23 Defendants

24 UNITED NATIONAL INSURANCE
25 COMPANY,

26 Cross-complainant,

27 v.

28 INTERSTATE FIRE & CASUALTY
COMPANY and Roes 1 through 10,

Cross-defendants.

Action No.: C 07-04943 JL

DECLARATION OF DIANE CRUZ IN
SUPPORT OF DEFENDANT AND
COUNTERCLAIMANT UNITED
NATIONAL'S MOTION FOR SUMMARY
JUDGMENT.

1 I, Diane Cruz, declare as follows:

2 1. I am a Senior Claims Examiner for United National Insurance Company and
3 I was the United National employee responsible for the adjustment of and day-to-day
4 handling of the claim by Cirrus Medical Staffing LLC pertaining to the underlying lawsuit
5 styled *Tracy v. Lovelace Sandia Health Services dba Albuquerque Regional Medical*
6 *Center*, State of New Mexico, Second Judicial District, County of Bernalillo, No. CV
7 2005 07009. The following facts are based upon my personal knowledge and I would
8 competently testify to them if called as a witness.

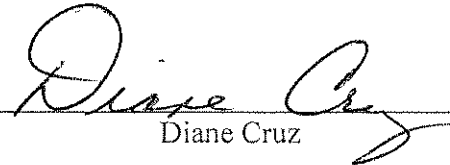
9 2. I have reviewed the following documents supporting United National's
10 motion for summary judgment: (1) the original complaint in the *Tracy* action, Exhibit E;
11 (2) the January 4, 2006, letter from attorney Ellen Thorne Skrak to Cirrus, Exhibit F; (3)
12 the January 5, 2006, fax from Ms. Skrak to Greg Allen of Cirrus, Exhibit G; (4) the
13 January 5, 2005, "General Liability Notice of Occurrence/Claim," Exhibit H; (5) the
14 January 6, 2006, e-mail from Terry Bellotti to "Interstate – Claims – Sheila Robertson,"
15 Exhibit I; (6) the January 10, 2006, fax from Ms. Skrak to Jennifer Beran, Exhibit J; and,
16 (7) the January 18, 2008, e-mail from Bill Hanaway to Cheryl Kleinke, Exhibit K.

17 3. I did not know of any of the documents listed in paragraph 2 before United
18 National contributed to the settlement of the *Tracy* action. I did not know of the above
19 documents until, in the case of Exhibits E-J, they were produced by Interstate Fire &
20 Casualty Company to United National in this litigation, and, in the case of Exhibit K, I
21 was provided with a copy of this document from United National's underwriting file in
22 the course of this litigation.

23 4. I did not know until after United National contributed to the settlement of
24 the *Tracy* action that Allen, Cirrus, or Interstate, had any knowledge of the *Tracy* action,
25 the *Tracy* complaint, or the alleged involvement of nurse Cathy Robinson in the death of
26 Marilyn Tracy during the Interstate policy period, or that Allen, Cirrus, and Interstate had
27 communicated about these subjects. I only learned of the knowledge of Allen, Cirrus, and
28 Interstate about these subject, and their communications during the Interstate policy

1 period, after I received copies of the above documents in the course of this litigation.

2 I declare under penalty of perjury under United States law that the foregoing is true
3 and corrected. Executed this 18th day of July, 2008, at Bala Cynwyd, Pennsylvania.

4
5 
6 Diane Cruz

Interstate Fire & Casualty Company v. United National Ins. Co.

United State District Court, Northern District Court No.: C 07-04943 MHP

PROOF OF SERVICE

I declare that:

I am a citizen of the United States, employed in the County of San Francisco. I am over the age of eighteen years, and not a party to the within cause. My business address is 44 Montgomery Street, Suite 750, San Francisco, California 94104. On the date set forth below I served the following document(s) described as:

DECLARATION OF DIANE CRUZ IN SUPPORT OF DEFENDANT AND COUNTERCLAIMANT UNITED NATIONAL'S MOTION FOR SUMMARY JUDGMENT

☐ (BY FACSIMILE) by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below, or as stated on the attached service list, on this date.

☐ (BY MAIL) I caused such envelope(s) with postage thereon fully prepaid to be placed in the United States mail at San Francisco, California.

☐ (BY PERSONAL SERVICE) I caused such envelope(s) to be delivered by hand this date to the offices of the addressee(s).

☐ (BY OVERNIGHT DELIVERY) I caused such envelope(s) to be delivered to an overnight delivery carrier with delivery fees provided for, addressed to the person(s) on whom it is to be served.

☒ (BY ELECTRONIC SERVICE) by submitting an electronic version of the document(s) to be served on all parties listed on the service list on file with the court as of this date.

Attorney for Plaintiff, Fireman's Fund Ins.

Co.

Christopher J. Borders

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San Francisco, CA 94111

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I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on July 21, 2008, at San Francisco, California.



Fatima Puente